REMARKS

Claims 1-22 are presented for reconsideration and allowance. The Office Action mailed February 23, 2006, rejected Claims 1, 2, 4, 10, and 13-16 under 35 U.S.C. § 102(e) as being anticipated by Kane (US 6,317,728). Claims 17-22 were rejected as being anticipated by Saias (US Patent Application Publication 2003/0014379). Further, Claims 3, 5-9, and 11-12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kane in view of Saias.

After carefully considering the cited art and the comments provided in the Office Action, applicant firmly believes the claims are in allowable condition. Minor amendments have been made to Claims 17, 19 and 20. These amendments do not change the scope of the claims. Withdrawal of the claim rejections and allowance of the application is requested.

Interview Summary

Prior to discussing the patentability of the claims, the undersigned counsel thanks Examiner Oyebisi for the time and consideration he extended in a telephonic interview conducted August 21, 2006. The interview, in summary, focused on independent Claims 1, 17, and 18 and how the elements recited in the claims define over the teachings of Kane and Saias. Among the issues discussed, agreement was generally reached that the agents described by Kane do not constitute "market participants" or "trading processes" as claimed in the present application. Moreover, the automated market described by Saias does not automatically update preference ratings for market participants nor does it disclose preference ratings for one trading process to another trading process when the trading processes are engaged in an anonymous trade. At the conclusion of the interview, the undersigned counsel agreed to submit the present response, after which the allowability of the claims would be further considered.

Claims 1, 2, 4, 10 and 13-16 Are Patentable Over Kane

For convenience of examination, Claim 1 is repeated as follows:

1. A method of facilitating trading, comprising:

automatically capturing a trade between two market participants, one of the market participants being a buyer in the trade and the other of the market participants being a seller in the trade,

automatically determining, by a software process executing on a computer, whether each of the market participants has gained money or lost money from the trade, and

automatically updating, by the software process, a preference rating for each of the market participants based on the determination of whether money was gained or lost from the trade.

Kane discloses a computerized system with decision logic that implements one or more "agents." These agents assist a trader in making a decision whether to enter into a trade. Depending on available information, the agents make a buy or sell suggestion to the trader based on the respective rules that they represent (see Col. 5, lines 5-15 of Kane).

Each suggestion is considered to be a vote (see Col. 5, lines 37-48). Depending on the outcome of the vote, the trader creates a trade order and sends the order to a marketplace for execution with another trader (see Col. 5, lines 49-55).

According to Kane, once the trader's position is exited (i.e., after a closing trade is executed), the trader's position is categorized as a win or a loss. Those agents that voted for the position are either "rewarded" or "punished." In other words, the system assesses how well the agents advised the trader and adjusts a merit quotient (or reliability rating) associated with the agents (see Col. 8, lines 35-45).

In contrast to Claim 1, Kane does not teach "automatically capturing a trade between two market participants, one of the market participants being a buyer in the trade and the other of the

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market participants being a seller in the trade." Rather, Kane's system only keeps track of its own side (buy or sell) of a trade. As discussed with Examiner Oyebisi in the telephone interview, *the agents disclosed by Kane are not "market participants"* in the sense of Claim 1. The agents do not themselves enter into trades. The agents only advise a trader, or market participant, on one side of a trade to determine whether to enter into the trade and what position to take in the trade.

Furthermore, Kane does not teach "automatically determining, by a software process executing on a computer, whether each of the market participants has gained money or lost money from the trade." Instead, Kane only knows whether its own side has gained or lost money from the trade.

Lastly, Kane fails to disclose the feature of "automatically updating, by the software process, a preference rating for each of the market participants based on the determination of whether money was gained or lost from the trade." Rather, Kane's system only updates merit quotients for its own agents that made recommendations to buy or sell.

Accordingly, Kane fails to teach or suggest the subject matter of Claim 1.

Claims 2, 4, 10 and 13-16 are also patentable over Kane, both for their dependence on allowable Claim 1, and for the additional subject matter they recite. Specifically, these claims recite features:

- "wherein the preference rating is associated with the two market participants" (Claim 2);
- "wherein the preference rating is based on at least one threshold" (Claim 4);
- "wherein the preference rating is used in determining whether to allow or prohibit a next trade between the market participants" (Claim 10);
- "wherein the automatically updating occurs after the trade" (Claim 13);

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- "wherein the automatically updating occurs at a predetermined time" (Claim 14);
- "wherein the automatically capturing and updating are performed by a market process" (Claim 15); and
- "wherein the automatically capturing is performed by a market process and the automatically updating is performed by a platform process" (Claim 16).

Each of the foregoing claims is patentably distinguished over Kane. Withdrawal of the rejection of Claims 1, 2, 4, 10 and 13-16 under 35 U.S.C. § 102(e) is requested.

Claims 3, 5-9 and 11-12 Are Patentable Over Kane and Saias

Saias discloses an automated market, AM 108, wherein "economic agents" establish a trade, the agents being programmed to act as surrogates for humans (see paragraphs [0310]-[0312]). At paragraph [0317], Saias explains:

> In the preferred embodiment, the AM 108 receives **trading preferences computed by the economic agents** and an optimization engine within the AM 108 finds the trade which maximizes the preferences of the participating economic agents. Specifically, the AM 108 allows economic agents such as organizations and firms to anonymously submit terms of a favorable exchange. Upon receipt of the trading preferences from the economic agents, the AM 108 reconciles compatible buyers and sellers. All of the terms that need to be negotiated are specified privately in a manner that incorporates the flexibility and often non-comparable utilities of the organization. **Further, none of the surfaces will be available for inspection or analysis by any other market participant, or any third party.** Since the AM 108 has the ability to receive preferences from economic agents which privately specify the range over which they are flexible on various terms, the present invention allows the negotiation process to be automated without publicizing the internal state of the participating economic agents. (Emphasis added).

As discussed with Examiner Oyebisi in the telephone interview, the trading preferences computed in Saias are not directed to ***who*** is on the other side of the trade. Rather, at paragraph [0318], Saias explains that the preferences, or terms, include price, quantity and other

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characteristics based on ***what*** is being traded. Moreover, preference information obtained from one market participant is not shared with any other market participant.

In contrast to Claim 1 (from which Claims 3, 5-9 and 11-12 depend), Saias does not disclose "automatically determining, by a software process executing on a computer, whether each of the market participants has gained money or lost money from the trade." Rather, Saias simply records the trade.

Saias further does not disclose "automatically updating, by the software process, a preference rating for each of the market participants based on the determination of whether money was gained or lost from the trade." Rather, the preferences taught by Saias are directed to what is being traded, not to the party with whom the trade is being executed.

Saias as well as fails to teach or suggest the subject matter of Claim 1. Since Kane and Saias both individually and collectively fail to teach or suggest the all of the elements of Claim 1, there is no combination of Kane and Saias which renders Claim 1 obvious. Accordingly, Claims 3, 5-9 and 11-12, which incorporate all the features of Claim 1 by dependence, are also patentable over Kane and Saias. In addition, each of these dependent claims is patentably distinguished over Kane and Saias for the additional subject matter they recite.

Specifically, Claims 3, 5-9 and 11-12 recite features:

- "wherein the preference rating is two-sided, each of the sides corresponding to how one of the two market participants rates the other of the two market participants" (Claim 3);
- "wherein the at least one threshold is supplied by at least one of the market participants" (Claim 5);
- "wherein the preference rating is also based on information supplied by at least one of the market participants" (Claim 6);

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- "wherein the information comprises a rule for determining the preference rating during the automatic updating" (Claim 7);
- "wherein the information comprises a rating for the other of the market participants" (Claim 8);
- "wherein a market participant can designate itself as anonymous" (Claim 9);
- "wherein the preference rating is based on comparing the trade price with a metric" (Claim 11); and
- "wherein the metric is a market price at a time other than the time of the trade" (Claim 12).

Withdrawal of the rejection of Claims 3, 5-9 and 11-12 under 35 U.S.C. § 103(a) is requested.

<u>Claims 17-22 Are Patentable Over Saias</u>

On page 7 of the Office Action, Claims 17-22 were rejected under 35 U.S.C. § 102(e) as being anticipated by Saias.

Claim 17 recites a method of facilitating trading, comprising:

> automatically providing a preference designation of anonymous from a first trading process to a market process, and
>
> automatically participating in a trade at the market process with a second trading process that is unaware of the identity of the first trading process yet is able to obtain, from the market process, a preference rating for the first trading process,
>
> wherein the first and second trading processes and the market process are each software processes executing on a computer, and wherein one of the first and second trading processes is a buyer in the trade, and

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the other of the first and second trading processes is a seller in the trade.

Claim 18 is directed to a method of facilitating trading, comprising:

automatically providing information to a preference updating process, and

automatically deciding, at a software process executing on a computer, the software process being a first market participant, whether to trade with a second market participant based on a preference rating of the second market participant determined by the preference updating process,

wherein one of the market participants is a buyer in the trade and the other of the market participants is a seller in the trade.

Saias fails to teach or suggest a first trading process that participates in a trade with a second trading process, wherein the second trading process obtains, from a market process, a preference rating for the first trading process while being unaware of the identity of the first trading process, as specifically recited in Claim 17. The automated market described by Saias does not disclose preference ratings for a trading process to another trading process when the trading processes are engaged in an anonymous trade.

Saias further fails to teach or suggest a *preference updating process*, as required by Claim 18. More specifically, Saias does not teach or suggest a software process (first market participant) that decides whether to trade with a second software process (second market participant) based on a preference rating of the second market participant determined by the preference updating process, as required by Claim 18. Accordingly, Claim 18 is patentably distinguished over Saias.

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Claims 19-22, which depend from Claim 18, incorporate all of the features of Claim 18. Accordingly, each of these dependent claims is patentably distinguished over Saias for the reasons discussed above. Claims 19-22 also present additional subject matter that defines the claims over Saias. This subject matter includes:

- "wherein the information comprises a rule for determining the preference rating of the second market participant" (Claim 19);
- "wherein the information comprises a rating for the second market participant" (Claim 20);
- "wherein the preference updating process is part of a platform process" (Claim 21); and
- "wherein the preference updating process is part of a market process" (Claim 22).

Withdrawal of the rejection of Claims 17-22 under 35 U.S.C. § 102(e) is requested.

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CONCLUSION

Claim 1-22 are all believed to be in allowable condition. A notice to that effect at an early date is requested. Should any issues remain needing resolution prior to allowance, the Examiner is invited to directly contact the undersigned counsel to discuss these issues.

Respectfully submitted,

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